REMARKS

The present Amendment amends claims 1, 2, 4 and 5 and leaves claim 3 unchanged. Therefore, the present application has pending claims 1-5.

Claim 2 stands rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. Various amendments were made to claim 2 to bring it into conformity with requirements of 35 USC §112, second paragraph. Therefore, Applicants submit that this rejection is overcome and should be withdrawn.

Claims 1-5 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-4 and 10 of the prior Patent No. 6,665,716. Applicants do not agree with this rejection. However, in order to expedite prosecution of the present application filed on even date herewith is a Terminal Disclaimer obviating this rejection. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

It should be noted that the filing of the Terminal Disclaimer was not intended nor should it be considered as an agreement on Applicants part that the features of the present invention as recited in claims 1-5 are taught or suggested by claims 1-4 and 10 of the prior patent. The filing of the Terminal Disclaimer was simply intended to expedite prosecution of the present application.

Claims 1-5 stand rejected under 35 USC §103(a) as being unpatentable over Bigus (U.S. Patent No. 5,442,730). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more

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clearly recited in claims 1-5 are not taught or suggested by Bigus whether taken individually or in combination with any of the of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to each of the claims so as to more clearly describe features of the present invention. Particularly, amendments were made to each of the claims so as to recite the features of the present invention wherein the present invention operates across a plurality of computers each executing a particular one of a plurality of jobs and when a delay is encountered in executing one of the jobs in a part of the computer system then an analysis can be performed as to the factors causing the delay in the part of the computer system exclusive of the other parts of the computer system.

The above described features of the present invention as now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, the above described features of the present invention as now more clearly recited in the claims are not taught or suggested by Bigus.

Bigus teaches an adaptive job scheduling method and apparatus wherein decisions concerning the order and frequency and access to a resource are made in a single computer relative to the priority based on job classes. Thus, in Bigus a priority level is placed on a particular job class so as to provide for a reduction of delays in performing the job of highest priority in the single computer.

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The present invention differs substantially from that taught by Bigus being that the present invention is concerned with a plurality of jobs that are executed across a plurality of computers of a computer system, and when a delay is encountered in anyone or more of the computers in executing the job assigned thereto particular processes are performed. According to the present invention as recited in the claims, the job or jobs which causes a delay factor in processing in the part of the computer system in which the delay has occurred is isolated so as to permit an analysis of the delay factor in the part of the computer system in which the delay has occurred exclusive of other parts of the computer system. These features of the present invention now more clearly recited in the claims are not taught or suggested by Bigus. These features of the present invention now more clearly recited in the claims are not possible in Bigus since Bigus is merely concerned with arranging priority levels of various job classes which are to be executed in a single computer.

In the Office Action the Examiner clearly recognizes that Bigus is only concerned with the execution of a job class in a single computer. In the Office Action, the Examiner alleges that it would be obvious to apply the teachings of Bigus relative to a single computer to the functions that may be performed in a plurality of computers in a computer system as in the present invention. However, the Examiner's allegation of obviousness fails completely since the present invention operates by performing several other processes across the computers of the computer system.

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For example, according to the present invention as recited in the claims history information is collected from each of the computers of the computer system. Such features are not taught or suggested by Bigus.

Further, the allegation of obviousness by the Examiner fails even more due to the above described amendments made to the claims wherein the delay factor as it may have occurred in a part of the computer system is analyzed exclusive of other parts of the computer system. Such features are clearly not taught or suggested by Bigus.

Thus, Bigus fails to teach or suggest a specifying step in which a job which became delay factor in processing the job, and a part of the computer, which indicates transfer of the job which became the delay factor, are decided, in accordance with the history information and definition information expressing an execution schedule of each job assigned to the computer to permit an analysis of the delay factor to be performed in the part of the computer system exclusive of other parts of the computer system as recited in the claims.

Therefore, as is quite clear from the above, the features of the present invention as now more clearly recited in the claims are not taught or suggested by Bigus whether taken individually or in combination with any of the other references of record. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 1-5 as being unpatentable over Bigus is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the reference utilized in the rejection of claims 1-5.

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In view of the foregoing amendments and remarks, applicants submit that claims 1-5 are in condition for allowance. Accordingly, early allowance of claims 1-5 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (566.37536CX1).

Respectfully submitted,

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